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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,366	07/11/2001	Frode Bjelland	032868-004	9560

27045 7590 11/10/2005

ERICSSON INC.  
6300 LEGACY DRIVE  
M/S EVR C11  
PLANO, TX 75024

EXAMINER

HOM, SHICK C

ART UNIT PAPER NUMBER

2666

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/903,366	<b>Applicant(s)</b> BJELLAND ET AL.	
	<b>Examiner</b> Shick C. Horn	<b>Art Unit</b> 2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 5-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-12 is/are allowed.
- 6) ☒ Claim(s) 5-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 5-12 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in

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order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herzog (6,891,801) in view of Hameleers et al. (6,928,067).

Regarding claim 5:

Herzog discloses a method of detecting a faulty path in a communication network having a control-plane entity and a user-Plane entity, comprising the steps of: sending, from the control-plane entity to the user-plane entity, an event wherein the event orders the user-plane entity to notify the control-plane entity when the user-plane entity discovers the faulty path; sending at least one heartbeat message through the path; determining whether one of said at least one heartbeat acknowledgment message has been received through the path; and if one of said at least one heartbeat acknowledgment message has not been received, notifying the control-plane entity of the faulty path (see col. 4 lines 9-19 which recite the method of detecting failure of the data transmission paths including the step of transmitting heartbeat messages with request for acknowledgment whereby acknowledgments is monitored and

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evaluated so that when acknowledgments fail to arrive, the associated transmission path is declared no longer usable).

Herzog discloses all the subject matter of the claimed invention with the exception of wherein the event and signal send being in accordance with a media gateway control protocol as in claims 5, 6; wherein the communication network provides general packet radio service as in claim 7; and wherein the communication network is a circuit-switched network using packet bearers as in claim 8.

Hameleers et al. from the same or similar fields of endeavor teach that it is known to provide wherein the event and signal send being in accordance with a media gateway control protocol (see col. 6 lines 10-22 which recite the control protocol being implemented on the basis of a media gateway control protocol MGCP) as in claims 5, 6; wherein the communication network provides general packet radio service and wherein the communication network is a circuit-switched network using packet bearers (see col. 1 lines 20-36 which recite the integration of the mobile cellular telephone network which is a circuit switched network to a packet switched network and col. 6 lines 23-42 which recite the signaling bearer conversions between circuit or packet switched protocols and packet switched protocols or vice versa clearly anticipate providing general

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packet radio service and the circuit-switched network using packet bearers) as in claims 7, 8.

***Allowable Subject Matter***

5. Claims 9-12 are allowed.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hemphill et al. disclose fault tolerant multiple network servers.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick C. Hom whose telephone number is 571-272-3173. The examiner can normally be reached on Monday to Friday with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SH

A handwritten signature in black ink, appearing to be 'DM' or similar, written in a cursive style.

DANG TON  
TANG TON